IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 24143 of 2007(Y)

PETITIONER:

P.S.KANAKALATHA KUNJAMMA,
TRIVENI, PANAVALLY P.O., CHERTHALA,
ALAPPUZHA.

BY ADV. SRI.K.JAJU BABU,
SMT.M.U.VIJAYALAKSHMI,
SRI.BRIJESH MOHAN.

RESPONDENTS:
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1. **THE BRANCH MANAGER,**
   STATE BANK OF INDIA, SOUTH KUTHIATHODE BRANCH,
   CHIRAMMEL BUILDINGS, SOUTH KUTHIATHODE,
   CHERTHALA.

2. **STATE OF KERALA, REPRESENTED BY ITS**
   CHIEF MANAGER, REGIONAL BUSINESS OFFICE,
   BEACH ROAD, ALAPPUZHA-688012.

BY ADV. SRI.K.K.CHANDRAN PILLAI,SC, SBI,
SRI.A.S.SAJUSH PAUL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) No. 24143 of 2007

Dated this the 26th day of September, 2007

J U D G M E N T

The main contention raised in this writ petition is that there is no default committed by the petitioner and that without giving a statement, proceedings have been initiated and notices issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, followed by Section 13 (4) of the Act.

2. The bank has filed a counter affidavit in which it has been stated that there has been default. In view of this, account was classified as a non-performing one and thereafter Section 13 (2) notice was issued to the petitioner to which petitioner did not even file any objections. The Bank would state that still later Section 13 (4) notice was issued. They also produced Exhibit R1 (a) undertaking of the petitioner agreeing for recovery of dues from her pension. However, it is pointed out that though the undertaking was invoked, that did not materialise for the reason that there were other dues which are to be recovered from her terminal benefits. According to the Bank, now the petitioner has retired from service and except through the proceedings under the Securitisation Act the Bank will not be in a position to recover the dues.

3. Strictly speaking against the proceedings under the Securitisation Act, remedy available to the petitioner is to file an appeal under Section 17 of the Act. Be that as it may, now the petitioner has also expressed her wish to repay the amount in instalments.

4. I heard the Learned Standing Counsel for the respondents also in this respect.

5. Taking into account the submissions made as above, I dispose of this writ petition directing that the petitioner will pay an amount of 50,000/- within one month from today and the balance amount will be payable by the petitioner in 10 equal monthly instalments. The 1st instalment will be payable on 15.10.2007 and the subsequent instalments will be payable on the 15th of every succeeding months. Proceedings against the petitioner will stand deferred and if the petitioner commits any default, the Bank will be entitled to proceed against the petitioner without any further notice.

The writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007